

REMARKS

This responds to the Office Action dated December 31, 2007.

Claims 1-15, 16-18, 19, 20-23, 25, 26 and 28-30 are amended, no claims are canceled, and claims 31-37 are added; as a result, claims 1-37 are now pending in this application.

Claims 31-37 are new. Applicant respectfully submits claims 31-37 do not include new matter and are supported by the specification and figures. For example, see Figures 8-11 and 16-18 and page 9, line 3 to page 13, line 11 of the specification. Further, Applicant respectfully submits claims 31-33 are patentable at least as dependent claims of claims 1, 11 and 23, respectively, and the discussion for claims 1, 11 and 23 below is repeated in support of claims 31-33. Further still, Applicant respectfully submits claims 34-37 appear to distinguish over the cited references.

Consideration and allowance of claims 31-37 are respectfully requested.

Claims 2-4, 6, 9-11, 13, 14, 16, 20, 22, 23 and 26 are amended to provide a minor change in terminology. For instance, claim 2 recites a second tubular support telescopically engaged with the first tubular support. In another example, claim 3 recites a second tubular support inner surface is dimensioned and configured to snugly envelop and slidably engage with the flexible element. Applicant respectfully submits that these terminology amendments to claims 2-4, 6, 9-11, 13, 14, 16, 20, 22, 23 and 26 are not related to patentability and are only meant to clarify that the claimed elements are capable of sliding or telescoping movement relative to each other.

Reconsideration and allowance of claims 2-4, 6, 9-11, 13, 14, 16, 20, 22, 23 and 26 are respectfully requested.

Claims 5, 8, 12, 15, 17, 18, 21, 25 and 28-30 are amended to provide minor changes in grammar. Applicant respectfully submits that these grammar amendments are not related to patentability and are only meant to make clearer what is already stated in the claims.

Reconsideration and allowance of claims 5, 12, 15, 17, 18, 21, 25 and 28-30 are respectfully requested.

Interview Summary

Applicant's representative, Tom Obermark, greatly appreciates the courtesies extended by the Examiner in the telephone interview of March 19, 2008. In the interview, the claims and the Qin reference were discussed. The Examiner indicated the claims appeared to distinguish over the cited reference and would accordingly reexamine the application. If the Examiner finds that all of the claims are not in condition for allowance, Applicant respectfully requests a telephone call (612-371-2117) to Applicant's representative to facilitate the allowance.

§102 Rejection of the Claims

Claims 1, 10, and 19 were rejected under 35 U.S.C. § 102(b) for anticipation by Qin et al. (US 5,807,249). Applicant respectfully traverses the rejections of claims 1, 10 and 19 for at least the following reasons. Applicant cannot find in Qin, for example, a first tubular support coupled around the flexible element therein and coupled to an actuator mechanism disposed within the housing, the first tubular support movable with the actuator mechanism, the first tubular support substantially constrains lateral movement of the flexible element, as recited in claim 1. Claim 10 depends from claim 1 and thereby includes all of its recitations. Further, Applicant cannot find in Qin means for constraining lateral movement of the flexible element within the actuator lumen, the means for constraining is correspondingly movable with movement of the flexible element, the means for constraining is separate from the flexible element, as recited in claim 19.

Qin recites at column 4, ll 4-6, “Unlike conventional manipulator wires, core wire 24 has sufficient columnar strength so as not to buckle when slider 12 is moved.” Furthermore, as stated in the Office Action discussion of the Qin reference, “the tubular support is included in the core wire itself.” Applicant respectfully submits Qin does not therefore appear to teach a first tubular support coupled around the flexible element therein and coupled to an actuator mechanism disposed within the housing, the first tubular support movable with the actuator mechanism, the first tubular support substantially constrains lateral movement of the flexible element, as recited in claim 1. Moreover, Qin does not appear to teach means for constraining lateral movement of the flexible element within the actuator lumen, the means for constraining is

correspondingly movable with movement of the flexible element, the means for constraining is separate from the flexible element, as recited in claim 19.

Reconsideration and allowance of claims 1, 10 and 19 are respectfully requested.

Allowable Subject Matter

Claims 11-18 and 23-30 have been allowed. Applicant graciously acknowledges the allowance of claims 11-18 and 23-30.

Claims 2-9 and 20-22 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant acknowledges the allowability of claims 2-9 and 20-22 if the claims were rewritten in independent form including all of the recitations of the relevant base claims. Applicant respectfully submits that base claims 1 and 19 are believed to be allowable as discussed above. Applicant reserves the right to amend claims 2-9 and 20-22 into independent form with all of the recitations of the relevant base claims.

Reservation of Rights

In the interest of clarity and brevity, Applicant may not have equally addressed every assertion made in the Office Action, however, this does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to

AMENDMENT AND RESPONSE UNDER 37 CFR § 1.116 – EXPEDITED PROCEDURE

Serial Number: 10/670,150

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pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

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CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney 612-371-2117 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date June 2, 2008

By



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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 2nd day of June 2008.

Jonathan Ferguson

/ Jonathan Ferguson /

Name

Signature